

## MINUTES

### MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

#### FREE CONFERENCE COMMITTEE on HB 490

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on April 21, 1999 at 6:38 P.M., in Room 413 Capitol.

#### ROLL CALL

**Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. Fred Thomas (R)  
Sen. Jon Tester (D)  
Rep. Sheill Anderson, Chairman (R)  
Rep. Karl Ohs (R)  
Rep. Hal Harper (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Shannon Gleason, Committee Secretary.  
Connie Erikson, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB490, 4/19/1999  
Executive Action:

**SEN. HARGROVE** stated the Free Conference Committee was called to address concerns **REP. HARPER** had with the funding sources of **HB 490**. **SEN. HARGROVE** passed out amendment **HB490hfa.jlh EXHIBIT (frs87sb0490a01)** and asked if this addressed **REP. HARPER's** concerns.

**SEN. HARGROVE** stated the Governor's amendments to **HB 260** had passed in the House and will be considered by the Senate. **HB 490**

is contingent upon **HB 260** passing. If **HB 490** does not pass and **HB 260** does, the money contained in **HB 260** for **HB 490** would revert to the university system. If **HB 260** is determined to be unconstitutional the amendment addresses **REP. HARPER's** concern that the **Secretary of State** does not get left with the bill for the election.

**REP. HARPER** questioned the reduction of \$75,000.00 for the election and stated no one wanted local taxpayers to have to cover the cost of the election. **REP. HARPER** thought the election could be held from 12:00 PM to 8:00 PM to reduce the cost.

**CHAIRMAN HARGROVE** advised the reduction in cost was at the suggestion of the **Secretary of the State**. The **Clerk and Recorder's** felt the cost would be reduced because of the flexibility authorized regarding the election.

**Angela Fultz**, Chief Deputy for the Secretary of the State, explained the reduction in cost was a result of the polling hours being shortened.

**CHAIRMAN HARGROVE** asked if the legislation provided the flexibility to reduce the hours. **Ms. Fultz** did not believe that was correct as Title 13 was very specific. **Ms. Fultz** felt there would need to be an amendment for the reduction in hours.

**Motion:** **REP. HARPER** moved that **CONCEPTUAL AMENDMENT STATING POLLS WILL BE OPEN FROM NOON TO 8:00 PM OR UNTIL ALL REGISTERED ELECTORS IN ANY PRECINCT HAVE VOTED. BE ADOPTED.**

**Discussion:**

**REP. OHS** and **CHAIRMAN HARGROVE** felt this would work.

**REP. OHS** asked if the \$450,000.00 was correct. **CHAIRMAN HARGROVE** advised it was.

**REP. ANDERSON** wanted to know the number of polling places involved. **Ms. Fultz** stated there would be 900 polls, each containing three election judges. The number of judges is up to the counties.

**SEN. THOMAS** asked if the hours were too specific, and thought they should be set by the Secretary of State. **Ms. Fultz** advised they did not set the hours. In most cases the counties set the polling hours. **SEN. THOMAS** felt the hours should be determined by the Secretary of State because he did not feel all counties would need that many hours and the cost could be further reduced.

**REP. HARPER** wanted to know if there was a precedent established in law for the Secretary of State to determine the hours. **Joe Kerwin**, Deputy Secretary of State for Elections, advised it has not been done in the past.

**Vote:** Motion **carried unanimously.**

**SEN. TESTER** stated this was an important bill and should be appropriated from the General Fund.

**CHAIRMAN HARGROVE** stated that was the original intention. The bill was tabled in Finance and Claims and destined to die until the amendments were proposed by the Governor to provide the funding elsewhere.

**SEN. TESTER** believed the money for the election was nothing compared to the allocation made in **HB 2**.

**Motion:** **SEN. THOMAS** moved that **AMENDMENT HB490hfa.jlh (exhibit 1) BE ADOPTED.**

**Discussion:**

**REP. OHS** advised the bill has moved through the process and the agreement was to work out the funding, not the bill.

**CHAIRMAN HARGROVE** felt if **HB 260** died **HB 490** would not be an issue.

**REP. HARPER** advised it would be an issue if the amendment was passed. **REP. HARPER** gave a scenario in which **HB 260** was ruled unconstitutional the day before the election and wanted to know how the money was going to be repaid to the Secretary of State.

**REP. ANDERSON** felt the General Fund would have to reimburse the money. **REP. HARPER** did not understand the mechanics. **REP. OHS** did not believe the money could be appropriated through **HB 2** because **HB 2** had passed. **REP. HARPER** believed **HB 490** was a cat and dog bill and the money could be appropriated in the bill.

**REP. ANDERSON** stated he wanted **REP. HARPER** to be comfortable with the funding source. **SEN. THOMAS** did not understand the concern. **CHAIRMAN HARGROVE** stated the appropriation for the election was in **HB 490**. **REP. HARPER** wanted clarification from the Budget Office on the mechanics of the funding. **CHAIRMAN HARGROVE** believed the appropriation would happen the same as any other bill. **HB 490** was the authorization.

**REP. HARPER** rephrased his concern that if **HB 260** is ruled invalid in the middle of the election, where the money comes to repay the fees for the election. **Mike Cooney**, Secretary of State advised the cost would be incurred by the counties. **Mr. Cooney** was unsure how the money would be recovered since his agency was not funded by the General Fund. *{Tape : 1; Side : A; Approx. Time Counter : 6:55}*

**CHAIRMAN HARGROVE** commented the amendment specifically stated the money would be returned to the Secretary of State's Office.

**REP. HARPER** questioned what would happen if the case was in litigation and the money appropriated could not be used, how the counties would be reimbursed. **Mick Robinson**, Governor's Office, stated the language in the amendment indicated if the expenditures by the counties were made, the appropriation language would come into play.

**REP. HARPER** felt the words did not satisfy when the reimbursement was due. **Mr. Robinson** felt the language was sufficient in the amendment. **REP. ANDERSON** asked what would happen if the money was already spent for the election and **HB 260** was ruled unconstitutional. **Mr. Robinson** advised the money would not be provided by **HB 260** and would be replaced from the General Fund.

**SEN. SWYSGOOD**, CHAIRMAN of the Finance and Claims Committee, stated the money would have to be paid back to the Coal Trust Fund. If **HB 260** was ruled unconstitutional prior to the election it would have to be paid back, if **HB260** was ruled unconstitutional after the election was reimbursed it would stand. **SEN. SWYSGOOD** advised the amendment was appropriating \$450,000.00 of General Fund money. **SEN. SWYSGOOD** felt the amendment was too vague and additional language needed to be added.

**REP. OHS** felt the legislative intent was clear. **REP. HARPER** requested the verbiage changed to state "or the provisions in **HB 260** are declared invalid then the money would be appropriated from the General Fund."

**SEN. TESTER** asked **SEN. SWYSGOOD** how he felt about the amendment. **SEN. SWYSGOOD** stated the reason the bill died in Finance and Claims was the cost of the election. Although the money was reduced in this amendment it was still a large cost. **SEN. TESTER** asked if this was a General Fund appropriation. **SEN. SWYSGOOD** advised it was. **SEN. TESTER** asked if there would be a problem eliminating the **HB 260** language. **SEN. SWYSGOOD** advised he had a problem either way.

**REP. HARPER** stated he did not have a problem with the bill. The concern he had was taking money from the **Coat Trust Fund**, no matter how it was spent. **REP. HARPER** did not want the election process being tied up in the bill. **REP. HARPER** supported the amendment to take the money from the General Fund, not money set aside for the future. The Committee discussed the options and decided it was best to leave the funding language as it was. **CHAIRMAN HARGROVE** stated the trust fund money was already allocated and if **HB 260** was found unconstitutional, the money would revert to the university system.

**REP. HARPER** thought the way the amendment was drafted, there would be money to reimburse the counties. His concern was busting the trust to provide anyone money.

**SEN. TESTER** advised if the funding was provided, it should be General Fund.

**Substitute Motion:** **REP. HARPER** made a substitute motion that **AMENDMENT BE AMENDED TO INCLUDE THE CONCEPTUAL LANGUAGE. BE ADOPTED.**

**Discussion:**

**SEN. THOMAS** asked what the purpose was. **CHAIRMAN HARGROVE** advised it was to address the court challenge specifically. **REP. ANDERSON** advised the language **REP. HARPER** wanted would not work and asked **Connie Eriksion**, Legislative Branch, to draft the amendment so it specifically addressed the fund would be reimbursed from the General Fund if **HB 260** was declared invalid. **REP. THOMAS** felt if **HB 260** was declared invalid the money would be appropriated anyway. **CHAIRMAN HARGROVE** wanted to make it as clear as possible the intent was to provide General Fund if **HB 260** was declared invalid.

**REP. HARPER** advised he was trying to address **SEN. SWYSGOOD's** comment involving **HB 260** being declared unconstitutional after the election. **REP. ANDERSON** felt the money would come from the General Fund by default. The committee discussed with **Ms. Erikson** proper language.

**Vote:** Motion **carried unanimously.**

**Motion/Vote:** **SEN. THOMAS** moved **THE FREE CONFERENCE REPORT BE ADOPTED. Motion carried unanimously.**

**ADJOURNMENT**

Adjournment: 7:15 P.M.

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SEN. DON HARGROVE, Chairman

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SHANNON GLEASON, Secretary

DH/SG

**EXHIBIT (frs87sb0490aad)**